



June 20, 2000

Jere W. Glover
Chief Council
Office of Advocacy
U.S. Small Business Administration
Washington, DC 20416

Via Fax Transmission
202/205-6928

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Re: *Northwest Mining Association v. Babbitt, et. al.*

Dear Jere:

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The Northwest Mining Association, through its attorney, Mountain States Legal Foundation, filed suit against the Secretary of the Department of Interior and the Bureau of Land Management in May, 1997, challenging 43 CFR 3809 bonding regulations on the grounds that the agency violated the requirements of the Regulatory Flexibility Act in promulgating these regulations. Soon after filing suit, we contacted the Office of Advocacy seeking support for our efforts to protect small businesses from these burdensome and unnecessary federal regulations.

We worked closely with Shawne Carter McGibbon and Jennifer A. Smith. They helped us and our attorneys to understand the Regulatory Flexibility Act (RFA) and the 1996 Small Business Regulatory Enforcement Fairness Act (SBREFA) amendments. They explained the purpose behind the RFA and SBREFA and the application of the RFA to our factual situation, and the role the Office of Advocacy could play in helping us defend the rights of small businesses in the rulemaking process.

In response, NWMA provided your staff with: 1) a description of the mining industry and the role of small businesses in the mining industry, and how BLM's regulations adversely impacted small mining companies; 2) the factual information your staff needed to understand why the BLM's definition of small mining companies was incorrect and irrelevant to the impact of the regulations; and 3) the factual background and understanding of the mining industry that they needed in order to properly prepare the *amicus* brief filed by the Office of Advocacy.

It is our opinion that the Office of Advocacy's intervention into our case and the subsequently filed *amicus* brief in support of our position challenging the regulations clarified the issues for resolution by the court. The Office of Advocacy's brief was very persuasive to the court's favorable interpretation of the RFA and SBREFA in accordance with congressional intent.

NWMA commends the Office of Advocacy for the roundtable discussions they have held on other regulatory proceedings that impact the mining industry. These roundtables are mutually beneficial to the mining industry, and the Office of Advocacy. They have helped our understanding of SBREFA and the role of the Office of Advocacy, and have provided

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an opportunity for our industry to keep the Office of Advocacy informed on various agency rulemakings and how they adversely impact small businesses in the mining industry. As a result of these roundtables, the Office of Advocacy has filed extensive comments on two separate occasions in the BLM's proposed rulemaking involving the 43 CFR 3809 Surface Management Regulations and important comments on the BLM's proposed location, millsite and mining claim rule.

Congress passed SBREFA to correct the problem of government agencies routinely ignoring small businesses and the RFA. Clearly, SBREFA provided much needed "teeth" to the RFA by creating the Office of Advocacy and allowing for judicial review of selected portions of the RFA. This is a powerful tool for the small business community and has empowered small business with the opportunity to fight oppressive regulations effectively. The Office of Advocacy plays an important role in the success of SBREFA.

We appreciate the working relationship we have developed with your office, and look forward to continuing to work with you to protect the rights of small businesses in the mining industry.

Sincerely,



Laura Skaer
Executive Director

LS/kw

USCAER/2009 General Office of Advocacy is NWMA's public face